



## Purpose and Applicability of Air Quality Regulations

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Many businesses operate processes and equipment or engage in activities that emit air pollution. Although not all of these processes and activities directly discharge pollutants to the outdoor air through a stack, they do release air pollutants that eventually escape the building and enter the atmosphere. Some typical sources of air pollution that are regulated include coating and degreasing operations; combustion sources, such as boilers and incinerators; and material handling operations, such as concrete and asphalt batch plants. A source is one or more pieces of equipment or processes capable of emitting air pollutants (see Title 326, Article 1, Rule 2, Section 73 of the Indiana Administrative Code [326 IAC 1-2-73]).



The air quality regulations aim at reducing the quantity of air pollutants that, directly or indirectly, enter the atmosphere. The regulations described in this chapter are not specifically aimed at reducing worker exposure to air pollutants in the workplace, but rather at protecting the public and environment from air pollutants. Regulations protecting workers from the inhalation of air pollutants are administered by the Indiana Department of Labor's Indiana Occupational Safety and Health Administration (see Chapter 18 for more information).

## Agencies and Their Laws and Rules

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The indirect or direct release of air pollutants into the outdoor air is regulated under federal and state statutes and rules. The purpose of these requirements is to minimize the adverse impact that air pollutants have on human health and the environment. The U.S. Environmental Protection Agency is responsible for developing new regulations that implement the mandates of the federal Clean Air Act. Federal air quality regulations are published under Title 40, Parts 50 through 99, of the Code of Federal Regulations (40 CFR Parts 50-99).

Title 326 of the Indiana Administrative Code contains the state regulations for sources of air pollutants. The Air Pollution Control Board adopts air regulations in Indiana, sometimes by incorporating federal rules and sometimes by adopting rules that address air pollution issues specific to Indiana. The Indiana Department of Environmental Management's Office of Air Quality (OAQ) is responsible for developing state air quality



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regulations to address federal requirements or special state needs. Air rules are promulgated by the Indiana Air Pollution Control Board using a public rulemaking process. OAQ is also responsible for processing applications for air permits, as well as enforcing compliance with state and federal air quality requirements.

Along with IDEM, agencies that work at the local level to regulate sources of air pollutants are called local air pollution control agencies. The primary duties may include monitoring pollutant levels, writing permits, conducting compliance inspections and enforcement. Local requirements may be more stringent than state requirements.

For a list of the local air pollution control agencies and their contact information, please refer to IDEM's Web site at [www.idem.IN.gov/5334.htm](http://www.idem.IN.gov/5334.htm).

The intent of this chapter is to provide a basic understanding of the review process for an air permit. Because of the numerous factors that can influence the level of permitting and the permit conditions, all the complexities involved in permitting review cannot be fully addressed in this guide. Therefore, persons intending to engage in activities which may result in air emissions of regulated pollutants are advised they must be in compliance with the Code of Federal Regulations (Subchapter C – Air Programs) and the Indiana statutes and rules (326 IAC) regarding air pollution control, including the December 25, 1998, revisions to 326 IAC 2, which contains the rules regarding construction of sources of air emissions.

To address the concerns of small businesses impacted by state and federal air quality regulations, Congress mandated that every state develop a program consisting of three elements: a technical assistance program, an ombudsman, and an advisory panel. In Indiana, IDEM's Compliance and Technical Assistance Program (CTAP) serves as the technical assistance program. CTAP provides free and confidential environmental assistance to small businesses by developing publications that simplify the air quality regulations, offering workshops on a variety of air quality regulatory programs, responding to phone inquiries, and conducting on-site visits.

### Overview of Air Permitting

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In its effort to minimize the emissions of regulated air pollutants and ensure that sources will operate in accordance with state and federal requirements, IDEM issues various types, or levels, of construction and operating permits. All sources of regulated air pollutants could potentially need a permit from IDEM.

The federal standards first set forth in the Clean Air Act of 1970 are the basis upon which Indiana has established emission thresholds and regulations for what are known as the regulated pollutants. For more information on this topic, as well as the criteria pollutants, please refer to IDEM's Web site at [www.idem.IN.gov/4223.htm](http://www.idem.IN.gov/4223.htm).

All sources, except those whose potential emissions are so low as to make them exempt from regulation, must have approval from IDEM's Office of Air Quality (OAQ) before they may construct or operate any source of air pollutants or any air pollution control equipment. In addition to new construction, any construction or operational changes that have the potential to increase emissions at existing sources also generally require some level of pre-construction approval from OAQ. The greater the expected emissions at a new or modified source, the higher the level of permit approval required.

The new source performance standards establish emissions limits which apply to new or modified sources. For more information, please refer to IDEM's Web site at [www.idem.IN.gov/4686.htm](http://www.idem.IN.gov/4686.htm). For information on hazardous air pollutants, please refer to IDEM's Web site at [www.idem.IN.gov/4582.htm](http://www.idem.IN.gov/4582.htm).

Gaining OAQ approval could be as simple as registering as a source of air pollutants, or it could be more complex, requiring the source to obtain a state- or federal-level construction permit or modification approval. Some levels of construction approval for smaller sources automatically allow the source to operate when construction is completed. In other situations, the source must obtain, or be transitioned to, an operating permit after construction is completed and before operation may begin.

Depending on its potential to emit (PTE), a source can be either:

- Exempt from any permitting requirements (the PTE is fairly low so the source is not required to obtain a permit or any other pre-approval from OAQ prior to construction and operation), although the construction and operation of the source would still be subject to all applicable regulations;
- Subject to registration (the PTE is high enough to require that the source register with OAQ as a source of air pollution, but not so high as to require that it obtain a detailed, source specific permit), requiring that the source register with IDEM prior to construction and operation; or
- Subject to permit requirements (the PTE is high enough to require that the source obtain some level of permit prior to constructing either the units that will be generating the air pollutants, or any pollution control equipment). Certain air pollution control projects are exempt from OAQ approval requirements. Once construction is completed, the source will also need an operating permit prior to operating the equipment. However, those generally smaller sources which may be eligible for some types of Source Specific Operating Agreement may both construct and operate under that agreement, instead of obtaining separate construction and operating permits.

While the PTE is perhaps the most important factor in determining if a source needs a permit, and what type, it is not always the only factor. Location—whether the source is, or will be, located in an attainment or non-attainment area—can be a factor. In addition,

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there are sources that are identified in the rules as being automatically required to be permitted at a specific level. There can also be special requirements regarding specific types of emissions, such as the various levels of control technology required on volatile organic compound emissions.

For detailed information on what IDEM considers a “source” regarding air permitting, and a discussion of PTE, please refer to IDEM’s Web site at [www.idem.IN.gov/4826.htm](http://www.idem.IN.gov/4826.htm).

#### What Types of Air Permits Does IDEM Issue?

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For new construction of relatively small sources or modifications to existing small sources, a state air permit is required (or the source or modification may be so small that it is exempt from permitting). New construction of relatively large sources or modifications to existing large sources are subject to federal air permitting requirements. In Indiana, those federal permits are issued by IDEM.

The requirements for large sources may be stricter than for small sources, so it is important to determine what type of permit your project requires. It is possible, in many cases, for a source to agree to limits in its permit that will ensure that it remains a small source, and remains subject to the less complex permitting requirements than those required for larger sources.

For more information, please refer to IDEM’s Web site at [www.idem.IN.gov/4223.htm](http://www.idem.IN.gov/4223.htm).

#### The Differing Definitions of State and Federal Construction

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##### State Construction

For purposes of state New Source Review (for registrations or any level of New Source Construction Permits) the applicant may install building supports and foundations, lay underground piping, erect storage structures, dismantle existing equipment, order equipment or control devices, initiate off-site fabrication or temporarily store equipment on-site other than where the permanent installation will occur. However, applicants may not fabricate, erect, or install air pollution control equipment on the facility or at that location intended for the use of that equipment until a permit has been issued (see 326 IAC 1-2-21).

##### Federal Construction

However, the federal New Source Review program is much more stringent. It only allows for limited activities on-site prior to commencement of construction. Activities allowed include: planning, ordering of equipment and materials, site-clearing, grading and on-site storage of equipment and materials. All of the above activities are at the owner’s risk. Activities of a permanent nature are prohibited. These include: installation of build-

ing supports and foundations, paving, laying underground pipe, and construction of permanent storage structures. Any construction activities of a permanent nature which take place prior to the issuance of the permit will result in an enforcement action (see 326 IAC 2-2-1 and 326 IAC 2-3-1[d]).

Some of the things a new source should do to comply with the requirements of New Source Review include (but are not limited to):

- Thoroughly complete the air construction permit application, taking care to not omit any information that is needed for IDEM staff to calculate the PTE for the source (insufficient information for determining the level of permitting required can prolong the permitting process);
- Submit three copies of the application to IDEM and also, within 10 days of the submission of the application, place a copy on file at the public library in the county in which the permitted activity is to take place. Take care not to exceed the limitations on construction prior to obtaining a registration or permit approval; and
- Once a construction permit is issued, the permittee must begin construction within 18 months, and all sources building under a new source construction permit must submit an affidavit of construction upon the completion of construction, after which IDEM transitions the source into an operating permit program.

## ■ Time Frames - What to Expect

IDEM has 60 days to process a registration, while New Source Construction Permits will be processed within 120 days, and federal construction permits within 270 days. Federal construction permits must be reviewed by the U.S. Environmental Protection Agency prior to issuance. If IDEM needs any additional information to process the application, it will contact the applicant by mail or fax with a request for additional information. Any time that passes while IDEM is awaiting a response will not be counted against IDEM's allotted permit processing time frames.

Letters of exemption and registrations do not require a public notice period. On the other hand, all draft permits must be made available for a 30-day public comment period. The applicant or the public may also request a hearing. An additional 45 days is added to the time frame if IDEM conducts a public hearing on a construction permit application.

Fees will be assessed and billed once IDEM has made a final determination as to the level of permitting that will be required.

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### Operating Permits

All new sources obtaining construction permits from IDEM transition into an operating permit program following the completion of construction and prior to operation start-up. In addition, IDEM has established two alternative operating permit programs—the Source Specific Operating Agreement Program and the Permit-by-Rule Program, which will be discussed later.

For more detailed information on these topics, please refer to *Additional Forms and Information* on IDEM’s Web site at [www.idem.IN.gov/4819.htm](http://www.idem.IN.gov/4819.htm).

### Amendments or Modifications to Existing Permits

Existing sources intending to make changes to production processes, emission units, or air pollution control equipment may need IDEM approval in the form of an amendment, modification, or revision to their permit. Also, whenever a permitted source of air pollutants undergoes a change of operators or ownership, it can have an impact on permitting status. Some permits must be transferred over by IDEM to the new owner-ship. Other permits may become void, requiring the new owner to reapply for permit coverage. Such permit transfers are required to ensure that the new owner becomes the legally responsible party for the permitted source or facility.

#### ***Construction Approval for Existing Sources: Who May Need a Change to an Operating Permit?***

Existing sources sometimes wish to change or add an emission unit(s) or pollution control unit, or otherwise alter their manner or scale of operations. These changes can sometimes be so insignificant as to be exempt from IDEM approval requirements, or may only require that the source notify IDEM that certain “notice-only” changes were made.

### Other Forms of Authorization

Not all sources of air pollutants need to be permitted. The table below shows the types of authorization required and exemptions offered for six criteria pollutants regulated under the National Ambient Air Quality Standards, as well as for hazardous air pollutants (HAPs) (see Appendix B on pages 229-231 for a complete list of HAPs).



Type of Authorization Required			
Pollutant	Exemption (tons/year)	Registration (tons/year)	Construction (tons/year)
Particulate Matter and PM <sub>10</sub>	< 5	≥ 5 and < 25	≥ 25
Sulfur Dioxide	< 10	≥ 10 and < 25	≥ 25
Nitrogen Oxide	< 10	≥ 10 and < 25	≥ 25
Volatile Organic Compounds <sup>1</sup>	< 10	≥ 10 and < 25	≥ 25
Volatile Organic Compounds <sup>2</sup>	< 5	≥ 5 and < 25	≥ 25
Carbon Monoxide	< 25	≥ 25 and < 100	≥ 100
Lead	< 0.2	≥ 0.2 and < 5	≥ 5
Hazardous Air Pollutant <sup>3</sup>	< 10	- - - - -	≥ 10
Hazardous Air Pollutants <sup>4</sup>	< 25	- - - - -	≥ 25

<sup>1</sup> Sources not required to use air pollution control equipment to comply with provisions of 326 IAC Article 8

<sup>2</sup> Sources required to use air pollution control equipment to comply with provisions of 326 IAC Article 8

<sup>3</sup> One hazardous air pollutant

<sup>4</sup> More than one hazardous air pollutant

For more information on the Source Specific Operating Agreement Program, please refer to *Additional Forms and Information* on IDEM's Web site at [www.idem.IN.gov/4819.htm](http://www.idem.IN.gov/4819.htm).

A registration incorporates the documentation needed by IDEM for both pre-construction and operation periods; therefore, separate documentation is not required to be submitted for each period.

Additionally, some sources that consist of only certain activities such as space and process heaters, heat treat furnaces, or boilers using natural gas with heat input of ten million British Thermal Units (BTUs) per hour or less are exempt from permitting as an insignificant source of air pollution. No applications to IDEM are required for exemptions.

Some new sources with a PTE which exceeds one of the thresholds listed above can opt to obtain and comply with one of the following enforceable Source Specific Operating Agreements per 326 IAC 2-9:

- 326 IAC 2-9-2.5 or 326 IAC 2-9-3 for surface coating operations.
- 326 IAC 2-9-4(b) through 326 IAC 2-9-4(d) and 326 IAC 2-9-4(f) for woodworking operations.
- 326 IAC 2-9-5 for abrasive cleaning operations.

- 326 IAC 2-9-7(b)(1) for sand and gravel operations.
- 326 IAC 2-9-8(b)(1) for crushed stone processing plants.
- 326 IAC 2-9-9 for concrete batch operations.
- 326 IAC 2-9-10 for coal mines and coal preparation plants that have provided public notice under 310 IAC 12-3-106 and included a reference of the application for an operating agreement in such notice.
- 326 IAC 2-9-11 for automobile refinishing operations.
- 326 IAC 2-9-12 for degreasing operations.

### Indiana Air Emissions Reporting System

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The federal Clean Air Act requires that each state maintain an inventory of air pollution emissions for certain facilities and update this inventory every year.

Many Indiana businesses report emissions data by the emission reporting rule (326 IAC 2-6). An emissions statement contains the amounts of nitrogen oxides, volatile organic compounds, sulfur dioxide, carbon monoxide, particulate matter that is 10 microns or smaller, and lead released to the air each year. IDEM's Office of Air Quality uses the reported emissions for many purposes including air quality planning and to calculate fees for Title V permits (Part 70 Permit Program, 326 IAC 2-7).

#### ■ Common Questions and Answers on the Air Emission Reporting System

##### *Do I have to report?*

You will only report regularly if you are a Title V source, a source that emits 25 tons or more of NO<sub>x</sub> in Lake or Porter counties, or a source that emits 5 tons of lead or more.

##### *How often will I have to report?*

Sources located in Lake and Porter counties must report annually. Sources in the rest of the state will have to report annually only if they have the potential-to-emit VOC or PM<sub>10</sub> at 250 tons or more per year, or CO, NO<sub>x</sub> or SO<sub>2</sub> at 2,500 tons or more per year. All other sources must report one year's worth of data once every three years.

##### *When must I report?*

All sources must report by July 1st of their required reporting year, but may report earlier.

##### *Do I have to report hazardous air pollutants?*

You do not have to report hazardous air pollutants on a regular basis. The rule does allow for IDEM to request this information, but reporting hazardous air pollutants was not made a regular reporting requirement.



*When would I have to report hazardous air pollutants?*

You only have to report hazardous air pollutants when requested by IDEM. The rule allows IDEM to require that this information be reported when it is to be used for a study of an area, an industry, to address public complaints, to better develop modeling inventories, to reply to information requests, and to verify Toxic Release Inventory information.

*Who do I contact for more information?*

For more information, call IDEM's Office of Air Quality at (800) 451-6027, ext. 3-0178 or (317) 233-0178.

## For More Information

Air Pollution Control Board	<a href="http://www.IN.gov/legislative/iac/title326.html">www.IN.gov/legislative/iac/title326.html</a>
Air Permits	<a href="http://www.idem.IN.gov/4223.htm">www.idem.IN.gov/4223.htm</a>
Compliance and Technical Assistance Program (CTAP)	<p>CTAP provides free and confidential environmental assistance to Indiana businesses. CTAP is a non-regulatory program. CTAP staff are available weekdays to answer your environmental questions regarding air, water, and waste regulations, pollution prevention, and recycling. CTAP offers a Quality Assurance Guarantee that IDEM will not issue a Notice of Violation assessing a gravity-based penalty against a regulated entity that has sought out, received, and relied upon CTAP's written compliance assistance prior to the alleged violation.</p> <p>(800) 988-7901 (toll free in Indiana) or (317) 232-8172  <a href="http://www.idem.IN.gov/4108.htm">www.idem.IN.gov/4108.htm</a></p>
Emissions Reporting Program	<a href="http://www.idem.IN.gov/4587.htm">www.idem.IN.gov/4587.htm</a>

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